

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0421P

**Gross and Adjusted Gross Income Tax
Calendar Years 1991, 1992, 1993, and 1994**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is incorporated in New York and has Indiana business locations in Bluffton and Rockville.

Taxpayer protests the penalty and states the assessments involved areas of interpretation of law, such as not adding back to Indiana adjusted gross income the Michigan single business tax, as they did not consider it an income tax, or determining what is the proper, if any, non-business expense to offset against non-business income besides selling commission on the sale of stock. Taxpayer further states they have a commitment to properly report their tax liabilities to Indiana.

I. **Tax Administration** –Penalty

DISCUSSION

Taxpayer was assessed a negligence penalty for failure to include proceeds from the sale of capitals assets at the high rate, to add back state income tax for adjusted gross income and to correctly apportion sales by failing to include throwback sales and other minor errors. Some of the issues were issues in a prior audit dated September 5, 1995 and the taxpayer's tax department should properly have filed the returns.

Taxpayer, in a letter dated June 16, 1998 protested penalties assessed because there was no negligence

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or intentional disregard of Indiana tax regulations. Taxpayer further states the assessments involved areas of interpretation of law, such as not adding back the Michigan single business tax.

Taxpayer's argument states that the assessments involved areas of interpretation of law, however, the Indiana Code and Regulations are clear.

The department finds that a negligence penalty is proper.

FINDING

Taxpayer's protest is denied.